UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD

LAND-AIR EXPRESS OF NEW ENGLAND, LTD.

and

Case 3-CA-28053

FREIGHT DRIVERS, HELPERS, DOCKMEN, ALLIED WORKERS, TEAMSTERS LOCAL UNION NO. 375

ORDER

The petition of Land-Air Express of New England, Ltd., to revoke subpoenas ad testificandum A-897528 and A-897533, and subpoena duces tecum B-606486 is denied.¹ The subpoenas seek information relevant to the matter under investigation and describe with sufficient particularity the evidence sought, as required by Section 11(1) of the Act and Section 102.31(b) of the Board's Rules and Regulations. Further, the Employer has failed to establish any legal basis for revoking the subpoenas.² See generally *NLRB v. North Bay*

¹ The Region also issued subpoena ad testificandum A-897543 in this case, which seeks the testimony of employee John Mianakian. Because the Employer did not raise any objections to that subpoena in its petition to revoke, we do not address it here. We note, however, that the Employer's failure to raise any objections to that subpoena in its petition may preclude it from subsequently challenging that subpoena in court. See Sections 102.31(b) and 102.111(b)(3) of the Board's Rules and Regulations.

² Member Hayes joins in denying the petition to revoke the subpoena duces tecum. With respect to the subpoenas ad testificandum in issue, he would hold the petition in abeyance for thirty days to provide the Region an opportunity to file a supplemental opposition explaining what further evidence is necessary to determine if a complaint should issue, and why such evidence can only be obtained through the testimony of the Employer's agents and/or supervisors.

Plumbing, Inc., 102 F.3d 1005 (9th Cir. 1996); NLRB v. Carolina Food Processors, Inc., 81 F.3d 507 (4th Cir. 1996).

Dated, Washington, D.C., September 9, 2011.

MARK GASTON PEARCE CHAIRMAN

CRAIG BECKER, MEMBER

BRIAN E. HAYES, MEMBER